

## **IC 31-16-12**

### **Chapter 12. Enforcement of Child Support Orders**

#### **IC 31-16-12-0.3**

##### **Repealed**

*(Repealed by P.L.39-2011, SEC.4.)*

#### **IC 31-16-12-1**

##### **Enforcement remedies**

Sec. 1. Notwithstanding any other law, all orders and awards contained in a child support decree or an order directing a person to pay a child support arrearage may be enforced by:

- (1) contempt, including the provisions under section 6 of this chapter;
- (2) an income withholding order; or
- (3) any other remedies available for the enforcement of a court order;

except as otherwise provided by IC 31-16-2 through IC 31-16-11 or this chapter.

*As added by P.L.1-1997, SEC.8. Amended by P.L.197-1997, SEC.11; P.L.123-2001, SEC.2; P.L.39-2002, SEC.1; P.L.148-2006, SEC.17.*

#### **IC 31-16-12-2**

##### **Delinquent child support payments; interest charges**

Sec. 2. The court may, upon a request by the person or agency entitled to receive child support payments, order interest charges of not more than one and one-half percent (1 1/2%) per month to be paid on any delinquent child support payment. The person or agency may apply for interest if support payments are not made in accordance with the support order. Accrued interest charges may be collected in the same manner as support payments under IC 31-16-9.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-12-3**

##### **Arrearages; court orders**

Sec. 3. (a) The obligation of a person to pay child support arrearages does not terminate when the person's duty to support a child ceases under IC 31-16-6-6 (or IC 31-11.5-12(e) before its repeal). The statutes applicable to the collection of child support obligations are applicable to the collection of child support arrearages described in this section.

(b) The court, upon request of a person or an agency entitled to receive child support payments, may issue an order that contains any of the following:

- (1) A determination of the amount of child support arrearage due to a person or an agency entitled to receive child support payments.
- (2) An order directing a person to pay the child support arrearage.
- (3) The schedule and other terms on which a person is to pay a

child support arrearage.

(4) Any other provision that the court determines to be appropriate.

An order issued under this subsection is enforceable to the same extent as an order or award in a child support decree.

*As added by P.L.1-1997, SEC.8. Amended by P.L.39-2002, SEC.2.*

#### **IC 31-16-12-4**

##### **Enforcement of judgment; income withholding order**

Sec. 4. Upon application to the court for enforcement of an order for support, the court may:

(1) enforce a judgment created under IC 31-16-16-2 (or IC 31-2-11-8 before its repeal) against the person obligated to pay support;

(2) issue an income withholding order as provided in IC 31-16-15-0.5; or

(3) implement an income withholding order as provided in IC 31-16-15-2.

*As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.20.*

#### **IC 31-16-12-5**

##### **Additional remedies**

Sec. 5. The enforcement remedies provided under this chapter are in addition to other remedies available for collecting delinquent support.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-12-6**

##### **Contempt**

Sec. 6. (a) If the court finds that a party is delinquent as a result of an intentional violation of an order for support, the court may find the party in contempt of court. If an action or request to enforce payment of a child support arrearage is commenced not later than ten (10) years after:

(1) the child becomes eighteen (18) years of age; or

(2) the emancipation of the child;

whichever occurs first, the court may, upon a request by the person or agency entitled to receive child support arrearages, find a party in contempt of court.

(b) The court may order a party who is found in contempt of court under this section to:

(1) perform community restitution or service without compensation in a manner specified by the court; or

(2) seek employment.

(c) The court may order a party who is alleged to be in contempt of court under this section to show cause as to why the party should not be held in contempt for violating an order for support. The order to show cause must set forth:

(1) the contempt allegations;

(2) the failure to pay child support allegations;

- (3) when the court issued the order for support;
- (4) the party's history of child support payments;
- (5) the specific:
  - (A) date and time when; and
  - (B) place where;
- the party is required to show cause in the court; and
- (6) the party's arrearage.

*As added by P.L.1-1997, SEC.8. Amended by P.L.32-2000, SEC.18; P.L.123-2001, SEC.3; P.L.86-2002, SEC.11; P.L.131-2009, SEC.11.*

#### **IC 31-16-12-6.5**

##### **Failure to respond to order to show cause; escrow**

Sec. 6.5. (a) If a party fails to respond to an order to show cause issued under section 6(c) of this chapter by the date and time specified in the order to show cause, the court may issue a bench warrant for the party to be arrested and brought to the court to respond to the order to show cause.

(b) The court must determine an escrow that a party ordered to show cause under section 6(c) of this chapter is required to deposit with the clerk of the circuit court before the hearing to show cause. If the child support arrearage amount is less than five hundred dollars (\$500), the court shall set the required escrow at the amount of the arrearage. If the arrearage is more than five hundred dollars (\$500), the court shall set the required escrow at not less than five hundred dollars (\$500) and not more than one hundred percent (100%) of the arrearage.

(c) All escrow received by a clerk of the circuit court under this section shall be deposited in a single account. The clerk shall:

- (1) keep an accounting of all money deposited in the escrow account;
- (2) issue a receipt to any person who pays money to the clerk under this section; and
- (3) transfer money out of the escrow account only after receiving an order to transfer money issued by the court that issued the bench warrant.

(d) If a party is arrested under subsection (a), the party shall remain in custody until the hearing to show cause unless the party posts the escrow amount required in the bench warrant.

(e) If a party is arrested outside the business hours of the clerk of the circuit court, the party may post the escrow amount stated in the bench warrant with the arresting officer.

(f) The arresting officer or clerk receiving an escrow amount shall give the party a receipt for the escrow on a form substantially as follows:

"Date: \_\_\_\_\_

Escrow received from \_\_\_\_\_ (referred to in this receipt as respondent) to assure the performance of the respondent's child support arrearage. The respondent shall appear for a hearing to show cause at \_\_\_\_\_ (time) on \_\_\_\_\_ (date) at the following address:

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(Address to be furnished by respondent for receipt of notice.)

The hearing is for the respondent to answer an order to show cause. If the respondent is found to be in contempt, further proceedings related to the respondent's contempt may occur.

If the respondent fails to appear at the time and date listed above, fails to submit to the jurisdiction of the court, or fails to abide by the court's orders, the Court may direct the Clerk of the Circuit Court to distribute the escrow deposited with the Clerk of the Circuit Court under state and federal child support distribution laws.

If the respondent appears at the time and location indicated above and the Court determines the respondent owes an arrearage under the support order that is the basis of the order to show cause or owes any costs to the Court, the Court may direct the Clerk of the Circuit Court to distribute the escrow deposited with the Clerk of the Circuit Court under state and federal child support distribution laws.

By depositing the escrow amount and accepting this receipt, the recipient of this receipt waives a claim to the money following a Court order for distribution of child support.

Printed name and signature of person receiving escrow deposit:

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Agency or department of person receiving escrow deposit: \_\_\_\_\_."

(g) A law enforcement officer who receives escrow money under this section shall deposit the money with the clerk of the circuit court that issued the bench warrant within two (2) business days after receiving the escrow money.

(h) If a party is arrested under subsection (a) and cannot post the escrow amount required in the bench warrant, the party is entitled to a hearing within forty-eight (48) hours after the party's arrest, excluding weekends and holidays, if the court is able to hold the hearing within that period. If the court cannot hold a hearing within forty-eight (48) hours, the court shall review the escrow amount ordered in the bench warrant, may modify the escrow amount in the bench warrant to ensure that the party appears at future hearings, and shall set a date for a hearing. At the hearing, the party shall explain to the court why the party cannot post the required escrow deposit required by the bench warrant. The party shall also respond to the court's order to show cause.

(i) If a party fails to appear at a hearing to respond to an order to show cause issued under this section after the party deposited the escrow amount set in the bench warrant, the court shall order the clerk of the circuit court to distribute the escrow under state and federal child support distribution laws. The court may also issue an additional bench warrant under subsection (a) for the party to respond to additional contempt charges.

(j) If a party posts the escrow amount set in a bench warrant, at a hearing to respond to an order to show cause under this section, the court shall determine how the escrow amount deposited is to be

distributed under state and federal child distribution laws. If the escrow amount deposited exceeds the arrearage, the party is entitled to a refund.

(k) The court may set aside a finding of contempt under this section if the court finds, based on the hearing held under this section, that the party is in compliance with the court's orders.

(l) If a court finds a person to be in contempt of court under this section, the court may punish the person for contempt of court under IC 34-47.

*As added by P.L.131-2009, SEC.12.*

#### **IC 31-16-12-7**

##### **Suspension of delinquent person's driving privileges**

Sec. 7. If a court finds that a person is delinquent (as defined in IC 31-25-4-2) as a result of an intentional violation of an order for support, the court shall issue an order to the bureau of motor vehicles:

(1) stating that the person is delinquent; and

(2) ordering the following:

(A) If the person who is the subject of the order holds a driving license or permit on the date of issuance of the order, that the driving privileges of the person be suspended until further order of the court.

(B) If the person who is the subject of the order does not hold a driving license or permit on the date of issuance of the order, that the bureau may not issue a driving license or permit to the person until the bureau receives a further order of the court.

*As added by P.L.1-1997, SEC.8. Amended by P.L.145-2006, SEC.234.*

#### **IC 31-16-12-8**

##### **Suspension or denial of delinquent person's professional license**

Sec. 8. If a court finds that a person who is an applicant (as defined in IC 25-1-1.2-1), a practitioner (as defined in IC 25-1-1.2-6), an attorney, or a licensed teacher is delinquent (as defined in IC 31-25-4-2) as a result of an intentional violation of an order for support, the court shall issue an order to the board regulating the practice of the person's profession or occupation:

(1) requiring that the person's or practitioner's license be suspended until further order of the court; or

(2) ordering the board not to issue a license to the person who is the subject of the order if the person does not currently hold a license.

*As added by P.L.1-1997, SEC.8. Amended by P.L.145-2006, SEC.235.*

#### **IC 31-16-12-9**

##### **Suspension of delinquent person's horse racing commission or gaming commission license**

Sec. 9. If a court finds that a person who holds a license issued

under IC 4-31-6, IC 4-33, or IC 4-35 is delinquent (as defined in IC 31-25-4-2) as a result of an intentional violation of an order for child support, the court shall issue an order to:

- (1) the Indiana horse racing commission if the person holds a license issued under IC 4-31-6; or
- (2) the Indiana gaming commission if the person holds a license issued under IC 4-33 or IC 4-35;

requiring that the person's license be suspended until further order of the court.

*As added by P.L.1-1997, SEC.8. Amended by P.L.145-2006, SEC.236; P.L.80-2010, SEC.34.*

### **IC 31-16-12-10**

#### **Suspension, denial, or nonrenewal of delinquent person's insurance, recovery, or bail agent's license**

Sec. 10. If a court finds that a person who holds a license or who is an applicant for a license issued under IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3 is delinquent (as defined in IC 31-25-4-2) as a result of an intentional violation of an order for child support, the court shall issue an order to the commissioner of the department of insurance:

- (1) requiring that the person's license be suspended until further order of the court;
- (2) ordering the commissioner not to issue a license to the person who is the subject of the order if the person does not currently hold a license; or
- (3) ordering the commissioner not to renew the license of a person who is the subject of the order.

*As added by P.L.1-1997, SEC.8. Amended by P.L.132-2001, SEC.23; P.L.145-2006, SEC.237.*

### **IC 31-16-12-10.5**

#### **Title IV-D agency required to provide information**

Sec. 10.5. The Title IV-D agency shall provide the full name, date of birth, verified address, and Social Security number or driver's license number of the person who is the subject of an order under:

- (1) section 7 of this chapter to the bureau of motor vehicles;
- (2) section 8 of this chapter to the board regulating the person's profession or occupation;
- (3) section 9 of this chapter to the Indiana horse racing commission or the Indiana gaming commission; and
- (4) section 10 of this chapter to the commissioner of the department of insurance.

*As added by P.L.207-2013, SEC.49.*

### **IC 31-16-12-11**

#### **Payment of arrearage; stay of order to licensing authority**

Sec. 11. Notwithstanding section 7, 8, 9, or 10 of this chapter, the court may stay the issuance of an order under section 7, 8, 9, or 10 of this chapter (or IC 31-1-11.5-13(j), IC 31-1-11.5-13(k), IC 31-1-11.5-13(l), or IC 31-1-11.5-13(m) before the repeal of

IC 31-1-11.5-13) if:

- (1) the person pays the child support arrearage in full; or
- (2) an income withholding order under IC 31-16-15 (or IC 31-2-10 before its repeal) is implemented and a payment plan to pay the arrearage is established.

*As added by P.L.1-1997, SEC.8. Amended by P.L.103-2007, SEC.21.*

#### **IC 31-16-12-12**

##### **Registration of child support order**

Sec. 12. (a) This section applies if:

- (1) the parent who is entitled to receive child support; and
- (2) the parent who is ordered to pay child support;

are both present in Indiana.

(b) The parent who is entitled to receive child support may register a child support order issued by another Indiana court or foreign court for the sole purpose of enforcement in accordance with IC 31-18-6-1 through IC 31-18-6-8 of the Uniform Interstate Family Support Act.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-12-13**

##### **Suspension, denial, or nonrenewal of delinquent person's employee's permit**

Sec. 13. If a court finds that a person who holds or has applied for an employee's permit issued under IC 7.1-3-18-9(a)(3) is delinquent (as defined in IC 31-25-4-2) as a result of an intentional violation of an order for child support, the court shall issue an order to the alcohol and tobacco commission that:

- (1) requires the person's employee's permit be suspended until further order of the court;
- (2) orders the chairman of the alcohol and tobacco commission not to issue an employee's permit to the person who is the subject of the order if the person does not currently hold an employee's permit; or
- (3) orders the chairman of the alcohol and tobacco commission not to renew the employee's permit of the person who is the subject of the order.

*As added by P.L.80-2010, SEC.35.*

#### **IC 31-16-12-14**

##### **Due process met for notice and service of process; service in contempt proceedings**

Sec. 14. (a) Except as otherwise provided in subsection (b), in any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of the party by a prosecuting attorney, private attorney, or private entity operating under an agreement or contract described in IC 31-25-4-13.1, the court or administrative agency with jurisdiction shall deem state due process requirements for notice and service of process to be met with respect to the party required to provide notice, upon mailing of written notice to the other party at the

most recent residential or employer address that is filed with the clerk or state central collection unit.

(b) IC 34-47-4 applies to service of an order directing an obligor to appear in a contempt proceeding.

*As added by P.L.80-2010, SEC.36.*